

United States District Court  
For the Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

VICTOR VELAZQUEZ,

Plaintiff,

v.

CITY OF SANTA CLARA, et al.,

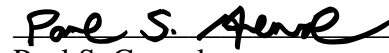
Defendants.

Case No. 5:11-cv-03588-PSG

**FINAL VERDICT FORM**

**IT IS SO ORDERED.**

Date: April 7, 2014

  
Paul S. Grewal  
United States Magistrate Judge

**I. 42 U.S.C. § 1983 – VIOLATION OF FOURTH AMENDMENT – EXCESSIVE FORCE BY INDIVIDUAL DEFENDANTS STEVE BURESS, CRAIG MIDDLEKAUFF AND NICK RICHARDS**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Did any defendant use excessive force against Victor Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is “Yes,” then answer Question 2 for that defendant but for no others. If you answered “No” to all defendants, go to Section II.

2. Was Velasquez harmed by any defendant’s excessive force?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is “Yes,” then answer Question 3 for that defendant but for no others. If you answered “No” to all defendants, go to Section II.

3. Was any defendant’s conduct a substantial factor in causing harm to Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

**IF YOUR ANSWER TO QUESTION 3 AS TO ANY DEFENDANT IS “YES,” GO TO SECTION II.**

**OTHERWISE, GO TO SECTION V.**

**II. 42 USC § 1983 - PUBLIC ENTITY LIABILITY - RATIFICATION**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Was Stephen Lodge a supervisor of the City of Santa Clara with final authority over the acts of any defendant whose excessive force was a substantial factor in causing harm to Velasquez?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 is “Yes,” then answer Question 2. If you answered “No,” go to Section III.

2. Did Lodge know of the acts of the defendant whose excessive force was a substantial factor in causing harm to Velasquez?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question is “Yes,” then answer Question 3. If you answered “No,” go to Section III.

3. Did Lodge specifically approve of the acts of the defendant whose excessive force was a substantial factor in causing harm to Velasquez?

Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION III.**

**III. 42 USC § 1983 - PUBLIC ENTITY LIABILITY - FAILURE TO TRAIN**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Was the City of Santa Clara's training program inadequate to train its officers to properly handle usual and recurring situations?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 is "Yes," then answer Question 2. If you answered "No," go to Section IV.

2. Did City of Santa Clara know, or should it have been obvious to it, that the inadequate training program was likely to result in a deprivation of Velasquez' Fourth Amendment rights?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 is "Yes," then answer Question 3. If not, go to Section IV.

3. Was the failure to provide adequate training the cause of the deprivation of Velasquez' Fourth Amendment rights?

Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION IV.**

**IV. BANE ACT**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Did any defendant interfere with or attempt to interfere with Velasquez' right to be free from unreasonable seizure by means of excessive force by threat, intimidation, or coercion?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is "Yes," then answer Question 2 for that defendant but for no others. If not, go to Section V.

2. Did any defendant do so to prevent Velasquez from exercising his right to be free from unreasonable seizure by means of excessive force or retaliate against him for having exercised his right to be free from unreasonable seizure by means of excessive force?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is "Yes," then answer Question 3 for that defendant but for no others. If not, go to Section V.

3. Was any defendant's conduct a substantial factor in causing harm to Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION V.**

**V. NEGLIGENCE**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Was any officer negligent?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is “Yes,” then answer Question 2 for that defendant but for no others. If you answered “No” to all defendants, go to Section VI.

2. Was the negligence of the officer(s) a substantial factor in causing harm to Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is “Yes,” then answer Question 3. If not, go to Section VI.

3. Was Velasquez negligent?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 is “Yes,” then answer Question 4. If not, go to Section VI.

4. Was Velasquez’ negligence a substantial factor in causing his harm?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 4 is “Yes,” then answer Question 5. If not, go to Section VI.

5. What percentage of responsibility for Velasquez’ harm do you assign to Velasquez?

\_\_\_\_\_ %

**GO TO SECTION VI.**

**VI. BATTERY BY A PEACE OFFICER**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Did any officer(s) touch Velasquez with the intent to harm or offend him?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is “Yes,” then answer Question 2 for that defendant but for no others. If not, go to Section VII.

2. Did any officer(s) use unreasonable force when arresting Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is “Yes,” then answer Question 3 for that defendant but for no others. If not, go to Section VII.

3. Was any officer(s)’ use of unreasonable force a substantial factor in causing harm to Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION VII.**

**VII. ASSAULT**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Did any defendant act with the intent to cause a harmful or an offensive contact with Velasquez or with the intent to place him in fear of a harmful or an offensive contact?

- a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is "Yes," then answer Question 2 for that defendant but for no others. If not, go to Section VIII.

2. Did Velasquez reasonably believe that he was about to be touched in a harmful or an offensive manner?

- a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is "Yes," then answer Question 3 for that defendant but for no others. If not, go to Section VIII.

3. Did Velasquez consent to any defendant's conduct?

- a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 as to any defendant is "Yes," then answer Question 4 for that defendant but for no others. If not, go to Section VIII.

4. Was any defendant's conduct a substantial factor in causing harm to Velasquez?

- a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_
- b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_
- c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 4 as to any defendant is "Yes," then answer Question 5 for that defendant but for no others. If not, go to Section VIII.

1           5. Did any defendant reasonably believe that Victor Velasquez was going to harm him or  
2           another person?

3                   a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

4                   b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

5                   c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

6           If your answer to Question 5 as to any defendant is “Yes,” then answer Question 6 for that  
7           defendant but for no others. If not, go to Section VIII.

8           6. Did the defendant use only the amount of force that was reasonably necessary to protect  
9           himself or another person?

10                   d. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

11                   e. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

12                   f. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

13           **GO TO SECTION VIII.**

**VIII. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. Was any defendant's conduct outrageous?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is "Yes," then answer Question 2 for that defendant but for no others. If not, go to Section IX.

2. Did any defendant act with reckless disregard of the possibility that Velasquez would suffer emotional distress?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is "Yes," then answer Question 3 for that defendant but for no others. If not, go to Section IX.

3. Did Velasquez suffer severe emotional distress?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 as to any defendant is "Yes," then answer Question 4 for that defendant but for no others. If not, go to Section IX.

4. Was any defendant's conduct a substantial factor in causing Velasquez' severe emotional distress?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION IX.**

**IX. RALPH ACT**

We, the jury, unanimously answer the Questions submitted to us as follows:

2. Did any defendant threaten or commit violent acts against Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 1 as to any defendant is "Yes," then answer Question 2 for that defendant but for no others. If not, go to Section X.

3. Was any defendant's perception of Velasquez's race and/or ancestry a motivating reason for that defendant's threats or conduct?

d. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

e. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

f. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 as to any defendant is "Yes," then answer Question 3 for that defendant but for no others. If not, go to Section X.

4. Would a reasonable person in Velasquez's position have believed that any defendant would carry out his threats?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 as to any defendant is "Yes," then answer Question 4 for that defendant but for no others. If not, go to Section X.

5. Would a reasonable person in Velasquez's position have been intimidated by any defendant's conduct?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 4 as to any defendant is "Yes," then answer Question 5 for that defendant but for no others. If not, go to Section X.

6. Was any defendant's conduct a substantial factor in causing harm to Velasquez?

a. Steve Buress: Yes \_\_\_\_\_ No \_\_\_\_\_

b. Craig Middlekauff: Yes \_\_\_\_\_ No \_\_\_\_\_

c. Nick Richards: Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION X.**

**X. RATIFICATION**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. We, the jury, have answered “Yes” to one or more of the following questions:

- a. \_\_\_\_\_ Section IV, Question 3 (Violations of the Bane Act)
- b. \_\_\_\_\_ Section V, Question 2 (Negligence)
- c. \_\_\_\_\_ Section VI, Question 3 (Battery by a Peace Officer)
- d. \_\_\_\_\_ Section VII, Question 6 (Assault)
- e. \_\_\_\_\_ Section VIII, Question 4 (Intentional Infliction of Emotional Distress)
- f. \_\_\_\_\_ Section IX, Question 5 (Violations of the Ralph Act)

If you checked any question under Question 1, then answer Question 2. If not, go to Section XI.

2. While engaging in the conduct at issue in Question 1, was Buress, Middlekauff, and/or Richards intending to act on behalf of the City of Santa Clara?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 2 is “Yes,” then answer Question 3. If not, go to Section XI.

3. Did the City of Santa Clara learn of the conduct that subjected Buress, Middlekauff, and/or Richards to liability under any of the following theories after the conduct occurred?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 is “Yes,” then answer Question 4. If not, go to Section XI.

4. Did the City of Santa Clara approve of the conduct that subjected Buress, Middlekauff, and/or Richards to liability under any of the following theories?

Yes \_\_\_\_\_ No \_\_\_\_\_

**GO TO SECTION XI.**

**XI. DAMAGES**

We, the jury, unanimously answer the Questions submitted to us as follows:

1. We, the jury, have answered “Yes” to one or more of the following questions:

- a. \_\_\_\_\_ Section I, Question 3 (§ 1983- Excessive Use of Force)
- b. \_\_\_\_\_ Section II, Question 3 (§ 1983- Public Entity Liability by Ratification)
- c. \_\_\_\_\_ Section III, Question 3 (§ 1983- Public Entity Liability by Failure to Train)
- d. \_\_\_\_\_ Section IV, Question 1 (Violations of the Bane Act)
- e. \_\_\_\_\_ Section V, Question 2 (Negligence)
- f. \_\_\_\_\_ Section VI, Question 3 (Battery by a Peace Officer)
- g. \_\_\_\_\_ Section VII, Question 6 (Assault)
- h. \_\_\_\_\_ Section VIII, Question 4 (Intentional Infliction of Emotional Distress)
- i. \_\_\_\_\_ Section IX, Question 5 (Violations of the Ralph Act)

If you checked any question under Question 1, then answer Question 2. If not, stop here, answer no further questions, and have the foreperson sign and date this form.

2. What is the total amount of damages, if any, suffered by Velasquez? Do not award duplicate damages for the same harm suffered from multiple claims.

\$ \_\_\_\_\_

3. Did Velasquez use reasonable efforts to mitigate his damages?

Yes \_\_\_\_\_ No \_\_\_\_\_

If your answer to Question 3 is “No,” then answer Question 4. If not, go to Question 5.

4. How much of Velasquez’ damages could have been mitigated by Velasquez’ reasonable efforts?

\$ \_\_\_\_\_

5. We, the jury, have answered “Yes” to one or more of the following questions with respect to the following defendants:

a. Section IV, Question 3 (Violations of the Bane Act)

i. Steve Buress: \_\_\_\_\_

ii. Craig Middlekauff: \_\_\_\_\_

iii. Nick Richards: \_\_\_\_\_

b. Section VI, Question 3 (Battery by a Peace Officer)

i. Steve Buress: \_\_\_\_\_

ii. Craig Middlekauff: \_\_\_\_\_

iii. Nick Richards: \_\_\_\_\_

c. Section VII, Question 6 (Assault)

i. Steve Buress: \_\_\_\_\_

ii. Craig Middlekauff: \_\_\_\_\_

iii. Nick Richards: \_\_\_\_\_

d. Section VIII, Question 4 (Intentional Infliction of Emotional Distress)

i. Steve Buress: \_\_\_\_\_

ii. Craig Middlekauff: \_\_\_\_\_

iii. Nick Richards: \_\_\_\_\_

e. Section IX, Question 5 (Violations of the Ralph Act)

i. Steve Buress: \_\_\_\_\_

ii. Craig Middlekauff: \_\_\_\_\_

iii. Nick Richards: \_\_\_\_\_

If you checked any question for any defendant under Question 5, go to Question 6 and answer as to each of the officers whom you checked. If not, stop here, answer no further questions, and have the foreperson sign and date this form.

5. Did the officer(s) engage in malice, oppression, or fraud with respect to any of the listed claims for which you answered “Yes” above?

i. Steve Buress: \_\_\_\_\_ Yes \_\_\_\_\_ No

ii. Craig Middlekauff: \_\_\_\_\_ Yes \_\_\_\_\_ No

iii. Nick Richards: \_\_\_\_\_ Yes \_\_\_\_\_ No

If you checked “Yes” for any defendant under Question 5, then answer Question 6. If not, stop here, answer no further questions, and have the foreperson sign and date this form.

6. What amount, if any, do you award in punitive damages?

Steve Buress: \$ \_\_\_\_\_

Craig Middlekauff: \$ \_\_\_\_\_

Nick Richards: \$ \_\_\_\_\_

Have the foreperson sign and date this form.

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_